

AMENDED IN ASSEMBLY MAY 15, 2008

AMENDED IN SENATE APRIL 8, 2008

AMENDED IN SENATE MARCH 24, 2008

**SENATE BILL**

**No. 1191**

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**Introduced by Senator Alquist**

(Principal coauthor: Assembly Member Berg)

*(Coauthor: Senator Hollingsworth)*

*(Coauthor: Assembly Member Lieber)*

February 12, 2008

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An act to amend ~~Section 61100~~ *Sections 61100 and 61105* of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1191, as amended, Alquist. Local government: community service districts: broadband access.

**Existing**

*(1) Existing* law authorizes a community services district to be formed to, among other things, provide fire protection services, organize, promote, conduct, and advertise programs of community recreation, provide transportation services, abate graffiti, and construct, maintain, and operate mailboxes.

This bill would authorize a community services district to construct, own, improve, maintain, and operate broadband facilities and to provide broadband services, under specified circumstances, until a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate broadband facilities and to provide broadband services, and to sell those services at a comparable cost and quality of service to the district and its property owners, residents, and visitors.

(2) Existing law provide that the Mountain House Community Services District is not authorized to operate television, cable, or telecommunications systems.

This bill would instead provide that the district is not authorized to operate television, cable, or telecommunications systems except as provided for community services districts with respect to broadband services.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 61100 of the Government Code is  
2 amended to read:

3 61100. Within its boundaries, a district may do any of the  
4 following:

5 (a) Supply water for any beneficial uses, in the same manner as  
6 a municipal water district, formed pursuant to the Municipal Water  
7 District Law of 1911, Division 20 (commencing with Section  
8 71000) of the Water Code. In the case of any conflict between that  
9 division and this division, the provisions of this division shall  
10 prevail.

11 (b) Collect, treat, or dispose of sewage, wastewater, recycled  
12 water, and storm water, in the same manner as a sanitary district,  
13 formed pursuant to the Sanitary District Act of 1923, Division 6  
14 (commencing with Section 6400) of the Health and Safety Code.  
15 In the case of any conflict between that division and this division,  
16 the provisions of this division shall prevail.

17 (c) Collect, transfer, and dispose of solid waste, and provide  
18 solid waste handling services, including, but not limited to, source  
19 reduction, recycling, and composting activities, pursuant to  
20 Division 30 (commencing with Section 40000), and consistent  
21 with Section 41821.2 of the Public Resources Code.

22 (d) Provide fire protection services, rescue services, hazardous  
23 material emergency response services, and ambulance services in  
24 the same manner as a fire protection district, formed pursuant to  
25 the Fire Protection District Law, Part 2.7 (commencing with  
26 Section 13800) of Division 12 of the Health and Safety Code.

27 (e) Acquire, construct, improve, maintain, and operate recreation  
28 facilities, including, but not limited to, parks and open space, in

1 the same manner as a recreation and park district formed pursuant  
2 to the Recreation and Park District Law, Chapter 4 (commencing  
3 with Section 5780) of Division 5 of the Public Resources Code.

4 (f) Organize, promote, conduct, and advertise programs of  
5 community recreation, in the same manner as a recreation and park  
6 district formed pursuant to the Recreation and Park District Law,  
7 Chapter 4 (commencing with Section 5780) of Division 5 of the  
8 Public Resources Code.

9 (g) Acquire, construct, improve, maintain, and operate street  
10 lighting and landscaping on public property, public rights-of-way,  
11 and public easements.

12 (h) Provide for the surveillance, prevention, abatement, and  
13 control of vectors and vectorborne diseases in the same manner  
14 as a mosquito abatement and vector control district formed pursuant  
15 to the Mosquito Abatement and Vector Control District Law,  
16 Chapter 1 (commencing with Section 2000) of Division 3 of the  
17 Health and Safety Code.

18 (i) Provide police protection and law enforcement services by  
19 establishing and operating a police department that employs peace  
20 officers pursuant to Chapter 4.5 (commencing with Section 830)  
21 of Title 3 of Part 2 of the Penal Code.

22 (j) Provide security services, including, but not limited to,  
23 burglar and fire alarm services, to protect lives and property.

24 (k) Provide library services, in the same manner as a library  
25 district formed pursuant to either Chapter 8 (commencing with  
26 Section 19400) or Chapter 9 (commencing with Section 19600)  
27 of Part 11 of the Education Code.

28 (l) Acquire, construct, improve, and maintain streets, roads,  
29 rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks,  
30 and any incidental works. A district shall not acquire, construct,  
31 improve, or maintain any work owned by another public agency  
32 unless that other public agency gives its written consent.

33 (m) Convert existing overhead electric and communications  
34 facilities, with the consent of the public agency or public utility  
35 that owns the facilities, to underground locations pursuant to  
36 Chapter 28 (commencing with Section 5896.1) of Part 3 of Division  
37 7 of the Streets and Highways Code.

38 (n) Provide emergency medical services pursuant to the  
39 Emergency Medical Services System and the Prehospital

1 Emergency Medical Care Personnel Act, Division 2.5  
2 (commencing with Section 1797) of the Health and Safety Code.

3 (o) Provide and maintain public airports and landing places for  
4 aerial traffic, in the same manner as an airport district formed  
5 pursuant to the California Airport District Act, Part 2 (commencing  
6 with Section 22001) of Division 9 of the Public Utilities Code.

7 (p) Provide transportation services.

8 (q) Abate graffiti.

9 (r) Plan, design, construct, improve, maintain, and operate flood  
10 protection facilities. A district shall not plan, design, construct,  
11 improve, maintain, or operate flood protection facilities within the  
12 boundaries of another special district that provides those facilities  
13 unless the other special district gives its written consent. A district  
14 shall not plan, design, construct, improve, maintain, or operate  
15 flood protection facilities in unincorporated territory unless the  
16 board of supervisors gives its written consent. A district shall not  
17 plan, design, construct, improve, maintain, or operate flood  
18 protection facilities within a city unless the city council gives its  
19 written consent.

20 (s) Acquire, construct, improve, maintain, and operate  
21 community facilities, including, but not limited to, community  
22 centers, libraries, theaters, museums, cultural facilities, and child  
23 care facilities.

24 (t) Abate weeds and rubbish pursuant to Part 5 (commencing  
25 Section 14875) of the Health and Safety Code. For that purpose,  
26 the board of directors shall be deemed to be a “board of  
27 supervisors” and district employees shall be deemed to be the  
28 “persons” designated by Section 14890 of the Health and Safety  
29 Code.

30 (u) Acquire, construct, improve, maintain, and operate  
31 hydroelectric power generating facilities and transmission lines,  
32 consistent with the district’s water supply and wastewater  
33 operations. The power generated shall be used for district purposes,  
34 or sold to a public utility or another public agency that generates,  
35 uses, or sells electrical power. A district shall not acquire  
36 hydroelectric power generating facilities unless the facilities’ owner  
37 agrees.

38 (v) Acquire, construct, improve, maintain, and operate television  
39 translator facilities.

1 (w) Remove snow from public streets, roads, easements, and  
2 rights-of-way. A district may remove snow from public streets,  
3 roads, easements, and rights-of-way owned by another public  
4 agency, only with the written consent of that other public agency.

5 (x) Provide animal control services pursuant to Section 30501  
6 of the Food and Agricultural Code. Whenever the term “board of  
7 supervisors,” “county,” “county clerk,” or “animal control officer”  
8 is used in Division 14 (commencing with Section 30501) of the  
9 Food and Agricultural Code, those terms shall also be deemed to  
10 include the board of directors of a district, a district, the general  
11 manager of the district, or the animal control officer of a district,  
12 respectively. A district shall not provide animal control services  
13 in unincorporated territory unless the county board of supervisors  
14 gives its written consent. A district shall not provide animal control  
15 services within a city unless the city council gives its written  
16 consent.

17 (y) Control, abate, and eradicate pests, in the same manner as  
18 a pest abatement district, formed pursuant to Chapter 8  
19 (commencing with Section 2800) of Division 3 of the Health and  
20 Safety Code. A district’s program to control, abate, or eradicate  
21 local pine bark beetle infestations shall be consistent with any  
22 required plan or program approved by the Department of Forestry  
23 and Fire Protection.

24 (z) Construct, maintain, and operate mailboxes on a district’s  
25 property or rights-of-way.

26 (aa) Provide mail delivery service under contract to the United  
27 States Postal Service.

28 (ab) Own, operate, improve, and maintain cemeteries and  
29 provide interment services, in the same manner as a public  
30 cemetery district, formed pursuant to the Public Cemetery District  
31 Law, Part 4 (commencing with Section 9000) of Division 8 of the  
32 Health and Safety Code.

33 (ac) Finance the operations of area planning commissions  
34 formed pursuant to Section 65101.

35 (ad) Finance the operations of municipal advisory councils  
36 formed pursuant to Section 31010.

37 (ae) Acquire, own, improve, maintain, and operate land within  
38 or without the district for habitat mitigation or other environmental  
39 protection purposes to mitigate the effects of projects undertaken  
40 by the district.

(af) If a private person or entity is unable or unwilling to deploy broadband service, construct, own, improve, maintain, and operate broadband facilities and to provide broadband services. For purposes of this section, broadband has the same meaning as in subdivision (a) of Section 5830 of the Public Utilities Code. The district shall first make a reasonable effort to identify a private person or entity willing to deploy service. The authority granted by this subdivision shall expire when a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate broadband facilities and to provide broadband services, and to sell those services at a comparable cost and quality of service as provided by the district. At that time, the district shall do one of the following:

(1) Diligently transfer its title, ownership, maintenance, control, and operation of those broadband facilities and services at a fair market value to that private person or entity.

(2) Lease the operation of those broadband facilities at a fair market value to that private person or entity.

*SEC. 2. Section 61105 of the Government Code is amended to read:*

61105. (a) The Legislature finds and declares that the unique circumstances that exist in certain communities justify the enactment of special statutes for specific districts. In enacting this section, the Legislature intends to provide specific districts with special statutory powers to provide special services and facilities that are not available to other districts.

(b) (1) The Los Osos Community Services District may borrow money from public or private lenders and loan those funds to property owners within the district to pay for the costs of decommissioning septic systems and constructing lateral connections on private property to facilitate the connection of those properties to the district's wastewater treatment system. The district shall lend money for this purpose at rates not to exceed its cost of borrowing and the district's cost of making the loans. The district may require that the borrower pay the district's reasonable attorney's fees and administrative costs in the event that the district is required to take legal action to enforce the provisions of the contract or note securing the loan. The district may elect to have the debt payments or any delinquency collected on the tax roll pursuant to Section 61116. To secure the loan as a lien on real

1 property, the district shall follow the procedures for the creation  
2 of special tax liens in Section 53328.3 of this code and Section  
3 3114.5 of the Streets and Highways Code.

4 (2) (A) Except as otherwise provided in this paragraph, on and  
5 after January 1, 2007, the Los Osos Community Services District  
6 shall not undertake any efforts to design, construct, and operate a  
7 community wastewater collection and treatment system within, or  
8 for the benefit of, the district. The district shall resume those  
9 powers on the date specified in any resolution adopted pursuant  
10 to subdivision (j) of Section 25825.5.

11 (B) Nothing in this paragraph shall affect the district's power  
12 to do any of the following:

13 (i) Operate wastewater collection and treatment facilities within  
14 the district that the district was operating on January 1, 2006.

15 (ii) Provide facilities and services in the territory that is within  
16 the district, but outside the prohibition zone.

17 (iii) Provide facilities and services, other than wastewater  
18 collection and treatment, within the prohibition zone.

19 (C) Promptly upon the adoption of a resolution by the Board of  
20 Supervisors of the County of San Luis Obispo requesting this  
21 action pursuant to subdivision (h) of Section 25825.5, the district  
22 shall convey to the County of San Luis Obispo all retained  
23 rights-of-way, licenses, other interests in real property, funds, and  
24 other personal property previously acquired by the district in  
25 connection with construction projects for which the district awarded  
26 contracts in 2005.

27 (c) The Heritage Ranch Community Services District may  
28 acquire, construct, improve, maintain, and operate petroleum  
29 storage tanks and related facilities for its own use, and sell those  
30 petroleum products to the district's property owners, residents,  
31 and visitors. The authority granted by this subdivision shall expire  
32 when a private person or entity is ready, willing, and able to  
33 acquire, construct, improve, maintain, and operate petroleum  
34 storage tanks and related facilities, and sell those petroleum  
35 products to the district and its property owners, residents, and  
36 visitors. At that time, the district shall either (1) diligently transfer  
37 its title, ownership, maintenance, control, and operation of those  
38 petroleum tanks and related facilities at a fair market value to that  
39 private person or entity, or (2) lease the operation of those

1 petroleum tanks and related facilities at a fair market value to that  
2 private person or entity.

3 (d) The Wallace Community Services District may acquire,  
4 own, maintain, control, or operate the underground gas distribution  
5 pipeline system located and to be located within Wallace Lake  
6 Estates for the purpose of allowing a privately owned provider of  
7 liquefied petroleum gas to use the underground gas distribution  
8 system pursuant to a mutual agreement between the private  
9 provider and the district or the district's predecessor in interest.  
10 The district shall require and receive payment from the private  
11 provider for the use of that system. The authority granted by this  
12 subdivision shall expire when the Pacific Gas and Electric  
13 Company is ready, willing, and able to provide natural gas service  
14 to the residents of Wallace Lake Estates. At that time, the district  
15 shall diligently transfer its title, ownership, maintenance, control,  
16 and operation of the system to the Pacific Gas and Electric  
17 Company.

18 (e) The Cameron Park Community Services District, the El  
19 Dorado Hills Community Services District, the Golden Hills  
20 Community Services District, the Mountain House Community  
21 Services District, the Rancho Murieta Community Services District,  
22 the Salton Community Services District, the Stallion Springs  
23 Community Services District, and the Tenaja Meadows Community  
24 Services District, which enforced covenants, conditions, and  
25 restrictions prior to January 1, 2006, pursuant to the former Section  
26 61601.7 and former Section 61601.10, may continue to exercise  
27 the powers set forth in the former Section 61601.7 and the former  
28 Section 61601.10.

29 (f) The Bear Valley Community Services District, the Bell  
30 Canyon Community Services District, the Cameron Estates  
31 Community Services District, the Lake Sherwood Community  
32 Services District, the Saddle Creek Community Services District,  
33 and the Wallace Community Services District may, for roads  
34 owned by the district and that are not formally dedicated to or kept  
35 open for use by the public for the purpose of vehicular travel, by  
36 ordinance, limit access to and the use of those roads to the  
37 landowners and residents of that district.

38 (g) Notwithstanding any other provision of law, the transfer of  
39 the assets of the Stonehouse Mutual Water Company, including  
40 its lands, easements, rights, and obligations to act as sole agent of



1 the stockholders in exercising the riparian rights of the  
2 stockholders, and rights relating to the ownership, operation, and  
3 maintenance of those facilities serving the customers of the  
4 company, to the Hidden Valley Community Services District is  
5 not a transfer subject to taxes imposed by Part 11 (commencing  
6 with Section 23001) of Division 2 of the Revenue and Taxation  
7 Code.

8 (h) The El Dorado Hills Community Services District and the  
9 Rancho Murieta Community Services District may each acquire,  
10 construct, improve, maintain, and operate television receiving,  
11 translating, or distribution facilities, provide television and  
12 television-related services to the district and its residents, or  
13 authorize the construction and operation of a cable television  
14 system to serve the district and its residents by franchise or license.  
15 In authorizing the construction and operation of a cable television  
16 system by franchise or license, the district shall have the same  
17 powers as a city or a county under Section 53066.

18 (i) The Mountain House Community Services District may  
19 provide facilities for television and telecommunications systems,  
20 including the installation of wires, cables, conduits, fiber optic  
21 lines, terminal panels, service space, and appurtenances required  
22 to provide television, telecommunication, and data transfer services  
23 to the district and its residents, and provide facilities for a cable  
24 television system, including the installation of wires, cables,  
25 conduits, and appurtenances to service the district and its residents  
26 by franchise or license, except that the district may not provide or  
27 install any facilities pursuant to this subdivision unless one or more  
28 cable franchises or licenses have been awarded under Section  
29 53066 and the franchised or licensed cable television and  
30 telecommunications services providers are permitted equal access  
31 to the utility trenches, conduits, service spaces, easements, utility  
32 poles, and rights-of-way in the district necessary to construct their  
33 facilities concurrently with the construction of the district's  
34 facilities. The district shall not have the authority to operate  
35 television, cable, or telecommunications systems, *except as*  
36 *provided in Section 61100*. The district shall have the same powers  
37 as a city or county under Section 53066 in granting a franchise or  
38 license for the operation of a cable television system.

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